STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
Janis W. Wilson

In the Matter of the Consideration of Adoption of Regulations to Implement Amendments to the Public Utilities Regulatory Policies Act of 1978 by the Energy Policy Act of 2005	R-06-5

REPLY COMMENTS OF THE ALASKA POWER ASSOCIATION

I. Introduction.

The initial comments filed in this docket by the Alaska Power Association ("APA") and electric utilities generally agree that it is not necessary or appropriate for the Regulatory Commission of Alaska ("Commission") to implement the new federal standards regarding net metering, fuel sources, fossil fuel generation efficiency, or time-based metering. Moreover, of all the initial comments filed, no commentor recommended that the Commission implement the federal standards regarding fuel sources, fossil fuel generation efficiency, or time-based metering. In addition, none of the commentors raised arguments contrary to those of APA that any Commission implementation of the new federal standards would apply to only four regulated electric utilities in Alaska and would not be applicable to any unregulated electric utilities in Alaska.

The only issue in dispute between any of the commentors is the net metering standard (and the interconnection standard as it relates to net metering). Specifically, two

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non-utility commentors generally support implementation of mandatory net metering requirements. As will be explained below, the main argument of these two commentors is that compulsory net metering would provide utility-funded financial incentives for customers to invest in renewable distributed generation equipment that would not otherwise be economic. Those utility-funded financial incentives would occur through the requirement, which is implicit in mandatory net metering, that utilities must purchase power from net metered generation at a price that greatly exceeds the costs that the utility avoids by purchasing that power. Although there are other related issues, that is the primary area of dispute between electric utilities and the two commentors that support mandatory net metering: whether utilities should be forced to purchase power from customer generators at the utility's avoided cost or, instead, at the premium, subsidized price reflected by the utility's fully allocated retail rate.

By compelling above-avoided cost pricing for net metered generation, the net metering standard would require other customers to subsidize net metering through higher electric rates. For this reason, and others, APA opposes implementation of the federal net metering standard in Alaska.

II. Summary of Initial Comments.

Initial comments were filed by APA, Central Electric, Inc. ("Central Electric"), Chugach Electric Association, Inc. ("Chugach"), the Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P"), Network for New Energy Choices ("NNEC"), and Peter McKay. In its initial comments, APA explained that (1) the scope of the Commission's inquiry required under Sections 1251, 1252, and 1254 of the Energy Policy Act of 2005 ("EPAct 2005") is

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relatively limited and discretionary; (2) only four electric utilities in Alaska meet the jurisdictional size criteria of the new federal standards; (3) the Commission can fulfill its statutory obligations in this single regulatory docket (with the possible exception of a docket to consider an interconnection standard); (4) under the unique circumstances of Alaskan utilities, it is not necessary or appropriate for Alaska to be on the leading edge of experimenting with the new federal standards; and (5) the net metering standard would require other customers to subsidize net metering customers through higher electric rates, which is contrary to the Commission's cost causer-cost payer and optimal use pricing principles (3 AAC 48.510(a)).

Central Electric opposed implementation of the new federal standards based on the significant cost of implementation and the need for rate increases to fund it. Chugach's comments discussed the ways Alaska electric utilities differ from Lower 48 utilities in relation to the federal standards and argued that implementation of those standards is unnecessary at this time (with the possible exception of interconnection standards). In its comments, ML&P focused on the salient issue of whether implementation of the new standards is necessary to achieve the purposes of 16 U.S.C., Chapter 46 ("Chapter 46")[1] and explained how none of those standards are necessary or appropriate to advance those purposes. Like Chugach, ML&P stated that it is open to the possibility of interconnection standards, but emphasized the need for such standards to protect safety and system reliability and properly assign the costs of interconnection to cost causers.

[1] The purposes of Chapter 46 are "to encourage (1) conservation of energy supplied by electric utilities; (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric customers." 16 U.S.C. § 2611.

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APA generally concurs with the initial comments filed by the utilities identified above. As it is the electric utilities and their customers who would bear the cost and burden of the implementation of the new federal standards, APA believes the Commission should carefully consider the utilities' positions on these issues.

In addition to the utility comments summarized above, initial comments were also filed by NNEC and Peter McKay regarding net metering. NNEC's comments recommended that the Commission implement a net metering standard that will provide financial incentives to promote consumer investment in renewable energy generation. In his comments, Mr. McKay supported implementation of a net metering standard in part because it would favorably alter "the economics and pay back period for [consumers'] investment" in wind energy generation. While APA understands that NNEC and Mr. McKay would like to make small-scale renewable energy production more financially feasible, APA opposes using mandatory net metering, and the subsidization from other customers that it necessarily requires, to advance that objective.

III. Reply Comments Regarding the Federal Net Metering Standard

A. Subsidizing consumer investments in renewable distributed generation is not a credible reason to adopt the federal net metering standard.

In its comments, NNEC's primary argument is that net metering "is vital to the promotion of renewable energy and their markets" through providing "vital economic incentives for customers to invest in renewable energy." NNEC Comments at 15-16. NNEC also argues that "net metering systems" reduce peak demand for electricity, improve public health, create jobs, and promote economic growth. *Id.* at 1. Notably, none of those justifications are directly

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relevant to the fundamental analysis that the Commission is required to undertake under federal law. Under 16 U.S.C. § 2621(a), the Commission is required to determine "whether or not it is appropriate to implement [the net metering standard] to carry out the purposes of [Chapter 46]." That is, do those purposes justify implementing the standard? The purposes of Chapter 46 are "to encourage (1) conservation of energy supplied by electric utilities; (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric customers." 16 U.S.C. § 2611. NNEC's sole focus on promoting renewable resources does not implicate these purposes.

First, net metering does not encourage conservation of electric production. Instead, it simply shifts the utility's supply of electricity from lower-cost, firm utility production to purchasing a portion of its power supply from interruptible power that is generated at a higher cost by the net generator. Second, mandatory net metering does not encourage efficient use of facilities by electric utilities. Instead, it causes the electric utility to displace lower cost generation with higher cost interruptible power purchases.

Third, net metering does not encourage equitable rates to electric customers. To the contrary, it requires other electric customers to pay higher rates to subsidize the net metering customer. That is the necessary result of mandatory net metering, which requires the utility to pay retail rates for interruptible power purchases from the net metering customer when the utility's avoided cost of generation is much lower. For example, when a net metering customer supplies one kWh of energy to a utility, the utility may save, or avoid, 4.5 cents per kWh in incremental generation cost by not generating that kWh. However, mandatory net metering requires the utility to "pay" the net metering customer for that kWh by crediting it against the

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quantity of power that the customer obtained from the utility. This results in the utility foregoing its revenue at the utility's retail rate, say 12 cents per kWh. The net effect is that the utility avoids a cost of 4.5 cents for the one kWh, but pays 12 cents for that kWh. The result is that the utility's cost of power for that kWh increases by a significant amount. Ultimately, that increase in cost is passed on to all of the utility's customers in higher rates either through the cost of power adjustment process or in its next rate case.

For the net metering customer, there is a net benefit in this transaction. However, for other customers, they pay higher overall electric rates to fund the utility paying substantially more for net metered power than the utility avoids by generating less energy. This is not only inconsistent with encouraging "equitable rates to electric customers," but it also violates the cost causer-cost payer and optimal use pricing principles set forth in 3 AAC 48.501(a).

It is worth noting that neither NNEC nor Mr. McKay asserts that mandatory net metering will reduce overall rates to customers or even that it will not affect customer rates one way or the other. In fact, they do not address the overall rate impacts of net metering at all. Presumably, that is because they recognize that higher rates are a necessary result of net metering, but believe that this disadvantage is acceptable in order to subsidize renewable energy investments. However, both federal and state law require the Commission to adequately consider the interests of all utility customers, not just those who want a better return on their investment in renewable generation. This is particularly important now, when most electric utility customers throughout the state have been experiencing sharply increasing energy costs.

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B. Reply regarding the New Jersey net metering program.

NNEC devotes most of its comments to discussing the "success" of New Jersey's net metering program. In brief response, the New Jersey program is largely irrelevant to the determination that the Commission must make in this docket. The New Jersey net metering program is not an example of a commission's determination of whether to implement the federal net metering standard under the purposes of Chapter 46. Instead, the New Jersey program was imposed through comprehensive state legislation that sought to encourage renewable energy.

In addition, the claimed "success" of the New Jersey program assumes that the "goal" is to increase the level of investment in renewable energy sources. That is a different issue from the consideration the Commission must undertake in this docket. In this proceeding, the Commission is required to consider whether the net metering standard is necessary and appropriate to serve the purposes of Chapter 46 under the circumstances of Alaska utilities and all of their customers. Increasing investment in renewable energy resources is not one of those explicit purposes; fair and equitable rates to all utility customers is.

C. Reply regarding "unwarranted utility concerns."

In its comments, NNEC does not credibly argue that net metering does not reflect a cross-subsidy between customers. Instead, NNEC argues that compensating net metering generators at less than the utility's retail rate produces a worse subsidy. NNEC Comments at 14. NNEC bases its claim on the assertion that solar energy systems generate excess electricity during peak demand periods, which allows the utility to reduce its use of "pricey 'peaking facilities.'" *Id.* NNEC does not cite any authority for this claim. However, even if it is accurate in some parts of the country, it is not accurate in most of Alaska. The potential for solar power,

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particularly at the time of winter system peaks, is very limited in Alaska. Moreover, Alaska utilities generally do not experience significant variations in incremental cost of generation over time, which means the distinction between "base load" and "peaking" facilities is far less significant in Alaska than it is other parts of the country.

In addition, NNEC argues that the cross subsidization argument does not apply if fixed transmission and distribution costs are unbundled. *Id.* Even with that level of unbundling, a utility's retail generation rate would still include fixed and variable costs. This means that the utility's avoided cost of generation (incremental cost) would still be significantly less than the fully allocated retail generation rate, so net metering would still require the utility to purchase power from the net generation customer at above its avoided generation cost.

IV. Conclusion.

As was stated in APA's initial comments, the scope of the Commission's required inquiry in this matter is relatively limited and discretionary. That inquiry requires the Commission to determine if implementation of the new federal standards is appropriate to serve the three purposes of Chapter 46 under the particular circumstances of Alaska electric utilities.

For the reasons set forth above and in APA's initial comments, as well as in the initial comments of Chugach and ML&P, APA recommends that the Commission decline to implement those standards (with the possible exception of interconnection standards) at this time. In addition, it is important to recognize that, if the Commission implemented the new standards, only four regulated Alaska utilities would satisfy the jurisdictional size criteria of those standards and the implementation would not apply to any unregulated utilities. That was

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one of the reasons that the Commission previously declined to adopt regulations implementing the standards established in 16 U.S.C. § 2621(d)(7)-(10) (regarding integrated resource planning, demand side management, and energy efficiency investments in power generation and supply) after EPAct 1992. *See* Order No. R-94-6(4) at 5 (declining to adopt because "the standard set forth is not applicable to all Alaskan regulated utilities").

With specific reference to the net metering standard, implementation in Alaska would be inconsistent with encouraging equitable rates among customers and would violate the Commission's cost causer-cost payer and optimal use pricing principles in 3 AAC 48.510(a). Mandatory net metering would force other utility customers to subsidize net metered customers through higher electric rates, and at a time when most customers in Alaska have seen significant increases in energy costs.

NNEC's and Mr. McKay's arguments in favor of a special renewable resources net metering standard are based on the flawed premise that providing financial incentives for renewable generation resources is an appropriate and justifiable goal by which to determine whether net metering should be required. Again, EPAct 2005 does not require the Commission's determination to be controlled or even affected by a goal to maximize customer investment in renewable generation. To the contrary, EPAct 2005 requires the Commission to determine whether implementation of the net metering standard is appropriate to further the three goals of Chapter 46.

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RESPECTFULLY SUBMITTED this 27th day of November, 2006, at Anchorage, Alaska.

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